IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION.

CRIMINAL APPLICATION No.2574 of 2007

Bhima @ Malikaarjun Anand Khyale ..Applicant.

Vs.

The State of Maharashtra ..Respondent.

Mr Vikas Shivarkar,Advocate for the applicant.

Mr K.V. Saste, APP for the State.

CORAM: V.C. DAGA,J.
DATED: 12TH SEPT, 2007.

P.C.:-

1. Heard learned counsel for the applicants and learned A.P.P.for the State.

2. Perused application and the material available on record.

3. The applicant, arrested in C.R. No.279 of 2006, registered with Swargate Police Station, Pune for the offence under Sections 302,120 (B),143, 147, 148, 506(2), 109 read with Section 149 of the I.P.C. and under Sections 3 (25) and 4 (25) of the Act.

4. According to the prosecution case, on the day of the incident the deceased Sudhir Rasal and the complainant Nitin Ghone had gone to the Relax Juice Bar, Sahakarnagar, Pune at

about 8:30 p.m.on 16.3.2006. The complainant Ghone entered the said Juice Bar to collect parcel; whereas; the deceased was standing outside. The complainant had heard shouts and screams of the deceased and discovered that the deceased was assaulted by 7-8 persons with scythe and sattur. The complainant had rushed across the road and called the police but the accused ran away. Injured Sudhir was taken to hospital where he succumbed to injuries.

5. The owner of the juice bar is one Nitin Gosavi. Statement of the complainant Nitin Ghone was recorded. The present applicant came to be arrested on 6.2.2007. The other accused persons have been enlarged on bail by the orders of this Court. Copies of those orders are placed on record. The learned counsel for the applicant submits that the present applicant would be entitled for bail on the ground of parity with other co-accused; namely, Rakesh Gaikwad, Mauli Shinde and Shrinath Pardeshi who are released on bail. According to her, there are no eye-witnesses to the alleged incident and the applicant is arrested only on the ground of suspicion and there is no evidence to connect him with the crime.

6. The investigation is complete. The charge-sheet is already filed. The applicant is a permanent resident of City of Pune. Thus, the possibility of jumping bail is remote. Considering the nature of material available on record and in the absence of specific role attributed against the applicant,I am inclined to grant bail to the applicant-accused on following terms and conditions.

(a)The applicant-accused (i.e.Bhima @ Mallikaarjun Anand Khyale be released on bail in the sum of Rs.25,000/-with one or two local sureties in the like amount in C.R. No.279 of 2006, registered with Swargate Police Station, Pune for the offence under Sections 302, 147, 148, 506(2) read with Section 149 of the I.P.C. and under Sections 3 (25) and 4 (25) of the Act.

(b) The applicant will not be released unless he furnishes proof of his residential address, as mentioned in the cause title of this application or otherwise, and shallnot change the

residence without prior intimation to the I.O.

c] The applicant shall report to the concerned Police Station once in a week i.e. on every Saturday between 3.00 to 5.00 p.m.till the conclusion of the trial.

d] The applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

e] The applicant shall co-operate with the learned Trial Judge for expeditious disposal of the case. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

f] Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

7. Application is disposed of in above terms.

(V.C. DAGA,J.)